

**Utah Tax Review Commission
Sales and Use Tax Working Group**

Recommendations: Issues in Developing an Ideal Sales and Use Tax System

Issue	Recommendation	Comments
Taxation of tangible property:		
New vs. used items (should both be taxed?)		
Sales of real property (consumption or investment)	Type of Real Property	Used as a residence: Used for a trade or business:
	Sales of land	Exempt
	Sales of improvements	Taxable (when sold for the first time)
	Sales of alterations, modifications, repairs, and renovations to real property	Taxable
Should tax be imposed on rental of real property?	Yes, for final consumption.	The working group recognizes that while this is a theoretically consistent recommendation, there are administrative issues associated with the imposition of the sales and use tax on rentals of real property for final consumption.
Taxation of services:		
Definition of services (financial services, medical services, real estate services, professional services)		
Which services should be taxed?	Final consumption of all services.	
To what extent should investment services be taxed? (e.g. a tax on the fee charged by a broker) (As a point of information, the Walker group concluded that taxation of financial services is not administratively feasible)		

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Other components of outline:		
Retaining exemptions required by the U.S. Constitution, federal statute, or federal case law?	Retain these exemptions	
Would the state lose federal funds if the exemption were repealed?	Retain exemptions necessary for the state to continue to receive federal funds	
Is the exemption required by the Utah Constitution?		
Does the exemption reduce regressivity?	The working group believes that expanding the sales and use tax base will generally reduce the overall regressivity of sales and use taxes. There is a positive relationship between the level of consumption of services and wealth, particularly health care.	<p>“Sales to” government and charitable organization are treated as a business input.</p>
How should inputs to charities or governmental inputs be treated? (To what extent are charities or governmental entities final consumers?)	<p>Charity</p> <p>Exempt</p>	<p>“Sales to”</p> <p>Fund-raising: exempt (may also fall under “isolated and occasional” exemption)</p> <p>All others for final consumption: taxable on the price paid or charged</p>
How should independent entities be treated	Government	<p>Exempt</p> <p>Generally taxable on the price paid or charged. Exempt fees, licenses, and sales of photocopies of certain government records.</p>
	Independent Entities	Make consistent with treatment of sales by governmental entities.

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Definition of inputs (production inputs, component parts, equipment used to assemble the end product)	<p>Purchases of business inputs should not be subject to sales and use taxes if the business inputs are predominantly used in the purchaser's trade or business.</p> <p>The Working Group recommends the following definitions (tentatively adopted by the TRC at its June 15, 2007 meeting):</p> <ul style="list-style-type: none"> (1) "Final consumption" means: <ul style="list-style-type: none"> (a) any property or service that does not constitute a business input. (2) "Business inputs" means: <ul style="list-style-type: none"> (a) any property or service if the purchase of that property or service by the purchaser qualifies for a deduction as an ordinary and necessary trade or business expense under Section 162 of the Internal Revenue Code as amended; (b) property used in the purchaser's trade or business of a character which is subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code as amended; © property for which a deduction is allowed under Section 179 of the Internal Revenue Code as amended, or (d) property held by the taxpayer for sale. 	<p>Purchases of business inputs should not be subject to sales and use taxes if the business inputs are predominantly used in the purchaser's trade or business.</p> <p>The Working Group recommends the following definitions (tentatively adopted by the TRC at its June 15, 2007 meeting):</p> <ul style="list-style-type: none"> (1) "Final consumption" means: <ul style="list-style-type: none"> (a) any property or service that does not constitute a business input. (2) "Business inputs" means: <ul style="list-style-type: none"> (a) any property or service if the purchase of that property or service by the purchaser qualifies for a deduction as an ordinary and necessary trade or business expense under Section 162 of the Internal Revenue Code as amended; (b) property used in the purchaser's trade or business of a character which is subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code as amended; © property for which a deduction is allowed under Section 179 of the Internal Revenue Code as amended, or (d) property held by the taxpayer for sale. <p>59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.</p> <ul style="list-style-type: none"> (1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions: <ul style="list-style-type: none"> (a) retail sales of tangible personal property for <u>final consumption</u> made within the state; (b) retail sales of services for final consumption made within the state; <ul style="list-style-type: none"> © ...
Structure of the exemption (exemption certificates)		
Tracking the exemption: Who? How? (vendor I.D. or reports)	Purchaser generally has the burden of proving eligibility for the exemption, rather than the seller; purchaser files for a refund in the case of "mixed use" property (e.g. a vehicle which is used for business and personal purposes).	The tax commission estimates that it might be necessary to issue refunds to as many as 350,000 taxpayers for purchases of business inputs.
Business outputs will be taxed at point of final consumption		
Guiding assumption should be that all inputs are not taxed		

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Economic development considerations:		Recognize that economic development should be part of the overall discussion of developing an ideal sales and use tax system.
1. Does the exemption promote economic development by encouraging outside firms to locate companies here and by helping Utah companies remain competitive?		
2. Does the exemption remove double taxation?		
3. Does the exemption fill an existing temporary need (e.g. helping an infant industry)?		
4. Is the amount of tax revenue generated by repealing the exemption greater than the economic benefit (additional jobs, wages, purchases, etc.) that the exemption produces?		
5. Other public policy considerations: <ul style="list-style-type: none"> ► Does the recipient of the tax incentive provide employment compensation payment and benefits sufficient to minimize public dependency? ► To what extent should government social engineer? 		
Collectibles		
Costs of compliance		
Number of tax rates and taxing jurisdictions		
Treatment of expensed items		
Does the exemption/exclusion exist because the cost of collecting the tax exceeds its yield?		
What is the best delivery method for the exemption/exclusion? (e.g. an income tax credit)		
Is the exemption/exclusion simple to understand?		

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Definition of destination The state of Utah or the county, city, or town (taxing jurisdiction)		
Designated destination for internet sales, interstate sales, and intrastate sales		